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26 GroupMe, Inc.

27 UNITED STATES DISTRICT COURT
28 NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

19 BRIAN GLAUSER, individually and on behalf)
20 of all others similarly situated,)

21 Plaintiffs,)

22 v.)

23 TWILIO, INC., a Delaware corporation,)
24 GROUPME, INC., a Delaware corporation,)

25 Defendant.)

CASE NO.: 4:11-cv-02584-PJH

**DEFENDANT GROUPME, INC.'S
REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF ITS MOTION TO
DISMISS, STAY OR TRANSFER**

Complaint Filed: May 27, 2011

Date: October 12, 2011

Time: 9:00 am

Courtroom: 3,

Judge: Hon. Phyllis J. Hamilton

1 Defendant GroupMe, Inc. ("GroupMe") hereby respectfully requests that the Court take
 2 judicial notice, pursuant to Rule 201 of the Federal Rules of Evidence, of the documents,
 3 referenced below, which are submitted as exhibits to the Declaration of Tonia Ouellette
 4 Klausner, dated August 25, 2011, in Support of GroupMe's Motion to Dismiss, Stay or Transfer.

5 Ex. B Senate Congressional Record, Proceedings and Debates of the
 6 102nd Congress, on November 26, 1991 regarding the
 7 Automated Telephone Consumer Protection Act, 137 Cong.
 Rec. S18317-01 (1991).

8 Ex. C Telephone Advertising Regulation Act, House Report No. 101-
 633 (1990)

9 Ex. D Telephone Consumer Protection Act of 1991, Senate Report No.
 10 102-178 (1991)

11 Ex. E Telephone Consumer Protection Act of 1991, House Report No.
 102-317 (1991)

12 Ex. F Senate Congressional Record, Proceedings and Debates of the
 13 102nd Congress, on November 27, 1991 regarding the
 14 Automated Telephone Consumer Protection Act, 137 Cong.
 Rec. S18781-02 (1991).

15 Ex. G Federal Communication Commission's ("FCC") Rules and
 16 Regulations Implementing the Telephone Consumer Protection
 Act of 1991, 7 FCC Rcd 8752 (1992).

17 Ex. H FCC's Rules and Regulations Implementing the Telephone
 18 Consumer Protection Act of 1991, 18 FCC Rcd 14014 (Report
 and Order, 2003)

19 Ex. I FCC's Rules and Regulations Implementing the Telephone
 20 Consumer Protection Act of 1991, 19 FCC Rcd 19215 (Order,
 2004)

21 Ex. J FCC Public Notice, 24 FCC Rcd 13635 (CGB 2009)

22 Ex. K FCC's Rules and Regulations Implementing the Telephone
 23 Consumer Protection Act of 1991, Notice of Proposed
 Rulemaking and Memorandum Opinion and Order, 17 FCC Rcd
 17459 (2002).

24 Ex. L FCC's Rules and Regulations Implementing the Telephone
 25 Consumer Protection Act of 1991, CG Docket No. 02-278,
 Notice of Proposed Rulemaking, 25 FCC Rcd 1501 (2010)

26 Ex. M Soundbite Communications Comments, CG Docket No. 02-278
 27 (filed May 21, 2010)

- 1 Ex. N Reply Comments of J.P. Morgan Chase & Co., CG Docket No. 27-278 (filed June 21, 2010)
- 2 Ex. O Notice of *Ex Parte* Presentation to Marlene Dortch, FCC, from Michele Farquhar, Counsel to Encore Capital Group, Inc., (filed May 5, 2011)
- 3 Ex. P Reply Comments of CTIA, CG Docket No. 02-278 (filed June 21, 2010)
- 4 Ex. Q Comments of Sprint Nextel, CG Docket No. 02-278 (filed May 21, 2010)
- 5 Ex. R Reply Comments of PRA, CG Docket No. 02-278 (filed June 21, 2010)
- 6 Ex. S Reply Comments of the Cargo Airline Association, CG Docket No. 02-278 (filed June 21, 2010)
- 7 Ex. T Comments of the United Parcel Service, Inc. in Response to Global Tel*Link Corporations Petition for Declaratory Ruling (filed July 15, 2010)
- 8 Ex. U Comments of Wells Fargo & Co., (filed May 21, 2010)

9 Judicial notice of Exhibits B-U is appropriate because Exhibits B-U are legislative
 10 histories of a statute, governmental reports, and/or documents that are administered by or
 11 publicly filed with the administrative agency that are not subject to reasonable dispute and are
 12 “capable of accurate and ready determination by resort to sources whose accuracy cannot
 13 reasonably be questioned.” FED. R. EVID. 201(B); *see also Lemperle v. Wash. Mut. Bank*, No. 10-
 14 cv-1550, 2010 WL 3958729, at *3 (S.D. Cal. Oct. 7, 2010) (“Judicial notice . . . is also
 15 appropriate because government reports and publications . . . [are] judicially noticeable.”). The
 16 court may take also take judicial notice of these documents because they are legislative histories
 17 of statutes, which would include Exhibits B-F, and documents administered by or filed with and
 18 administrative agency, such as Exhibits G-U. *See Rocky Mtn. Farmers Union v. Goldstene*, 719
 19 F. Supp. 2d 1170, 1186 (E.D. Cal. 2010) (legislative histories); *Northwest Envtl. Advocates v.*
 20 *EPA*, 537 F.3d 1006, 1026–27 (9th Cir. 2008) (taking judicial notice of contents of EPA's request
 21 for public comment); *see also Moore v. Verizon Commc'ns, Inc.*, No. 09-1823, 2010 WL
 22 3619877, at *3 (N.D. Cal. Sept. 10, 2010) (taking judicial notice of published decisions, orders,
 23 and policy statements of the FCC); *Greene v. T-Mobile USA, Inc.*, No. 07-1563, 2008 WL

1 351017, at *2 (W.D. Wash. Feb. 7, 2008) (taking judicial notice of comments and petitions filed
2 with the FCC).

3 **CONCLUSION**

4 For the foregoing reasons, GroupMe requests that the Court consider the above-
5 referenced documents in connection with GroupMe's Motion to Dismiss, Stay or Transfer.

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9 DATED: August 25, 2011

Respectfully submitted,

10 WILSON SONSINI GOODRICH & ROSATI
11 Professional Corporation

12 By: /s/ Renu R. George
13 Renu R. George

14 *Attorneys for Defendant GroupMe, Inc.*
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